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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE 1489th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 August 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.05 a.m.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIFTH SESSION (agenda item 7)

(b) Effective implementation of international instruments on human rights

1. The CHAIRMAN, reporting on the thirteenth meeting of the chairpersons of the human rights treaty bodies, said that the letter sent to the Secretary-General the previous year regarding the honoraria of treaty-body members had remained unanswered and that a new letter on the same subject was to be dispatched to the Secretary-General the next day. The members of three treaty bodies received a token honorarium, while those of the other three, including the Committee on the Elimination of Racial Discrimination, did not.

2. The first inter-committee meeting would be convened at a date yet to be agreed. Three members from each committee would be invited to attend. The items on the agenda were periodicity of reports, reservations and methods of work. The Committee on the Elimination of Racial Discrimination could not alter the periodicity of reports presented to it, because that was stipulated in article 9 of the Convention. An exchange of views would be held on reservations. The Committee would include methods of work in the agenda of its March session. Once the date of the meeting was established, the Committee would send a delegation and make its contribution. The meeting would be financed by voluntary contributions from various countries.

3. It had transpired that the Chairperson or a representative of the Committee on the Elimination of Discrimination against Women attended the part of the sessions of the Commission on Human Rights and the Commission on the Status of Women when that Committee's annual report was discussed. The chairpersons of all the human rights treaty bodies had unanimously decided that their committee should likewise be represented when its report was debated by the relevant United Nations organ and they had requested the United Nations High Commissioner for Human Rights to provide the necessary funds. He was of the opinion that funds for the plans of action could be used for that purpose.

4. The problems caused by the United Nations Travel Unit were common to all treaty bodies and had been discussed at length. They included last-minute receipt of tickets, long delays in reimbursing terminal expenses and refusal to allow members to travel with the airline of their choice. The Travel Unit had promised to look into the matter. He would keep members informed about any developments.

5. A full day's meeting with representatives of States parties had been held. The delegations had expressed great interest in the Committee's activities and their appreciation of the decision the Committee had taken on reporting procedure at the previous session.

6. He had received a letter from the Chairman of the Commission on Human Rights inviting the Chairman or a member of the Committee to address the one-day informal meeting of the Commission which was to be held on Tuesday, 25 September 2001, if either of those persons happened to be in Geneva, as no per diem or travel expenses would be paid.

7. Mr. ABOUL-NASR proposed that, at the forthcoming meeting of the States parties and during the Third Committee's debate of the Committee's annual report, Mr. Fall should raise the issue of holding a Committee session at United Nations Headquarters in New York and also that he should request that the Committee be treated on the same financial basis as other committees.

8. Mr. PILLAI stated that he was pleased that working methods were to be discussed at one of the forthcoming sessions and wondered whether the treaty bodies had managed to harmonize their working practices any more closely. He proposed that, at the current meeting, the specific aspects of working methods which the Committee would like to debate should be clearly identified and that the secretariat should be asked to collect information from other treaty bodies about the procedure they followed. He further asked whether the Chairman had received the draft statement which was to be made by treaty bodies to the forthcoming World Conference and, if so, if it could be made available to members.

9. Mr. de GOUTTES pointed out that all treaty bodies were faced with many voluminous reports containing detailed information on covenants and conventions which were not their concerns. He requested confirmation that the Human Rights Committee had adopted a decision on the simplification of reports which, in the future, would no longer be exhaustive, but targeted on precise questions.

10. Mr. FALL agreed to raise the two issues mentioned by Mr. Aboul-Nasr at the meeting of the States parties in New York in January.

11. Mr. BOSSUYT observed that it was not incumbent on the States parties meeting to decide on questions with financial implications.

12. The CHAIRMAN said that, in the absence of any objections, he took it that the Committee wished a representative to be present when its annual report was considered by the General Assembly.

13. It was so decided.

14. The CHAIRMAN announced that the common statement by treaty bodies to the World Conference had been drafted and he would be most grateful for any proposed amendments or suggestions regarding further subjects for inclusion.

15. Mr. YUTZIS said that, although he had never had a strong opinion regarding a New York session, he believed that the fact that a significant number of States parties were unable to present reports because they had no delegation in Geneva should be taken into account. Bearing in mind, however, that the Committee's repeated request for a New York session had been consistently denied, the Committee should perhaps ask itself what the political cost might be of continuing to make such a request and continuing to receive such a refusal. It would be a good idea for it to determine as clearly as possible where the resistance lay and focus its efforts on that point.

16. The question of procedures and methods of work always seemed to arise in the course of considering a State party's report. It was of course useful to discuss working methods in a specific context, but it would also be useful to discuss the issue separately. He suggested, therefore, that the Committee's sixtieth session, in March 2002, should include, as a separate agenda item, a special meeting on working methods and procedures, with a Committee member being asked to prepare a working paper as a basis for discussion.

17. Lastly, he wondered whether any follow-up was planned to the thematic meeting on the question of the Roma, held during the fifty-seventh session in August 2000, and suggested that a similar meeting could be held at another session on the theme of descent.

18. Mr. FALL said that, at the fifty-fifth session of the General Assembly, the Third Committee had agreed that the question of holding alternate sessions in New York and Geneva was a matter for the meeting of the States parties, which should interpret the Convention and take a decision. In the event of any financial implications, the question would then be referred to the Fifth Committee. He therefore hoped that the Chairman would refer to the Third Committee's decision in his letter to the Secretary-General on the issue. He would be prepared both to put the Committee's requests to the meeting of the States parties and to represent the Committee during consideration of its report by the General Assembly.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)
(CERD/C/59/Misc.25/Rev.1)

Bayefsky report (continued)

Draft incorporating suggestions made by members of the open-ended working group of the Committee (CERD/C/59/Misc.25/Rev.1)

19. Mr. THORNBERRY, introducing the revised draft text of the Committee's statement on the Bayefsky report, said he had incorporated Committee members' suggestions as fully as possible. He suggested the following further amendments: at the end of the final sentence of the second paragraph, adding the words "who have a deep understanding of the treaty bodies system"; in the first sentence of the fourth paragraph, replacing the words "who make a solemn declaration" by the words "who performed their duties in accordance with a solemn declaration"; replacing the fifth sentence of the fourth paragraph with the words "The risks of political 'bias' in the outcomes of such a system of 'checks and balances' are reduced to a minimum"; and a minor drafting change in the second sentence of the final paragraph. He assumed that the statement would be sent with a covering letter to the High Commissioner for Human Rights and that copies would be sent, without the covering letter, to the other recipients of the Bayefsky report.

20. Mr. ABOUL-NASR said the statement was well drafted and reflected the views expressed during the discussion. He wondered whether it might be appropriate to make the point that the Committee was not over-sensitive to criticism. The Committee had responded in the past to criticism of its composition and working methods and indeed willingly engaged in self-criticism, as it would be doing at its next session in its review of its own methods of work. Such self-examination was not mentioned in the Bayefsky report.

21. Mr. TANG Chengyuan said the statement should mention the fact that there were positive aspects to the report and that it even contained some suggestions which the Committee should consider. What the Committee objected to was the allegation of political bias. He also felt that the final sentence weakened the main point of the statement by repeating what had already been stated. It would be better to do as Mr. Aboul-Nasr suggested and say that the Committee welcomed any suggestions that might improve its working methods.

22. Mr. YUTZIS, referring to the fifth and sixth sentences of the fourth paragraph, said that political bias was inevitable and even necessary. The point was that no single subjective viewpoint prevailed in the Committee. He therefore suggested inserting at the beginning of the sixth sentence the words "Taking into account that political bias is inevitable, nevertheless no one member ...".

23. Mr. BOSSUYT said he believed Mr. Aboul-Nasr's concerns were already reflected in the penultimate sentence of the final paragraph. In response to Mr. Yutzis, he said that the Committee should perhaps not labour the point. Mr. Thornberry's oral amendment reflected the same concern. He therefore suggested that the draft should be adopted without further amendment.

24. Mr. SHAHI said that, in its letter to the High Commissioner, the Committee should express the hope that, in evaluating the report, she would take into account the comments on the report made by the independent expert Mr. Philip Alston and by the former Chairman of the Committee, Mr. Peter Banton. Mr. Alston, in particular, had torn the report to shreds and concluded that it lacked any in-depth analysis of the work of the treaty bodies. Mr. Thornberry's oral amendment to the final sentence of the second paragraph was therefore particularly welcome as it reflected his own opinion that the report was superficial.

25. Mr. RESHETOV said that the Committee's response to the Bayefsky report would be an important document and the draft was of high quality and well argued. It strengthened Committee members' position by demonstrating the possibility of change in working methods and emphasizing that the Committee was not averse to criticism. He therefore proposed that Mr. Thornberry's oral amendments should be accepted and the draft as a whole adopted. Any further amendments would weaken the document.

26. Mr. de GOUTTES said he agreed with the proposed amendments. He particularly welcomed the reference to the Committee's General Recommendation IX. He agreed with Mr. Aboul-Nasr and others that it was important to show that the Committee was not averse to serious, balanced criticism.

27. Mr. DIACONU suggested deleting the final sentence of the document because, like Mr. Tang Chengyuan, he felt it was not a good note to end on. He also wondered whether the Committee's response would be as extensively distributed as the Bayefsky report itself and how that would be done.

28. The CHAIRMAN said that the secretariat would circulate the document to all permanent missions, all human rights treaty bodies and the Commission on Human Rights.

29. Mr. ABOUL-NASR said, with regard to distribution of the statement, that a summary of the discussion and the statement should be included in the Committee's report to the General Assembly. He also stressed that, if in the future the Office of the High Commissioner again sponsored reports such as the Bayefsky report, the authors should take full account of the very valuable work being carried out by developing country researchers in order to avoid a developed world bias. He was aware, for example, of two Egyptian researchers who were doing very good work; their works had been published in Arabic, but Arabic was after all one of the official languages of the Organization.

30. Mr. SHAHI suggested that, in the second sentence of the last paragraph, the words "and the report as a whole provides some useful thoughts for all those genuinely concerned with improving the implementation of human rights" should be deleted. He wondered whether there were any useful thoughts in the report, the conclusions of which seemed quite unjustified. For example, it was unfair of the author to single out a handful of the Committee's concluding observations for criticism and he noted that the author called for economic sanctions against States which were found not to be in compliance with the Convention, which was quite unrealistic.

31. Mr. THORNBERRY recalled that Ms. Bayefsky, who had been studying the international human rights system for more than 20 years, had published a great deal on that subject and the Committee should not appear to be too dismissive of her report. He did not agree with the deletion suggested by Mr. Shahi and likewise felt that the last paragraph should stand as written in order to maintain the general tone of the text.

32. Mr. BOSSUYT, supported by Mr. EALL, stressed that it was important that the Committee should appear balanced in its criticisms, in order to maintain its credibility; he opposed the deletion suggested by Mr. Shahi because it would not be fair to say that there was nothing useful in the report and, consequently, the last sentence should also be retained to underscore the Committee's regret that the useful aspects were outweighed by inaccuracies and distortions. With regard to the comments made by Mr. Aboul-Nasr, he noted that annex 11 of the report indicated that experts from Third World countries had been consulted.

33. Mr. RESHETOV pointed out that the persons consulted by Ms. Bayefsky, including himself, had in fact only been asked to respond to requests for information on specific items relating to implementation of the Convention in their countries and they had had no inkling of how that information would be used. He suggested that the text should be approved without any further amendments.

34. Mr. ABOUL-NASR said that he was fully aware of the list of persons consulted by Ms. Bayefsky but nevertheless maintained that too little attention was paid to the valuable research done in the Third World; in future there should be much more emphasis on ensuring balance and fair representation.

35. Mr. SHAHI said he would not insist on the deletion he had proposed and would agree to retain the last paragraph as it stood if that was the wish of the Committee.

36. Mr. THORNBERRY, supported by Mr. ABOUL-NASR and Mr. de GOUTTES, said that the concerns expressed earlier by Mr. Diaconu about the tone of the end of the final paragraph would be met by inverting the last two sentences of the paragraph.

37. The CHAIRMAN suggested that, in the last sentence, the word "accurately" should be deleted.

38. The draft statement of the Committee on the Bayefsky report (CERD/C/59/MS25/Rev.1), as amended, was adopted.

39. The CHAIRMAN said he took it that the Committee wished to have the statement distributed in the manner suggested by Mr. Thornberry and also to include a summary of its discussions and the statement in its report to the General Assembly.

40. It was so decided.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the thirteenth to sixteenth periodic reports of Egypt (CERD/C/59/Misc.26/Rev.2)

41. Mr. DIACONU (Country Rapporteur) said that the draft text incorporated changes suggested by Committee members.

Paragraphs 1 and 2

42. Paragraphs 1 and 2 were adopted.

Paragraph 3

43. Following a suggestion by Ms. BRITZ, the CHAIRMAN said that the word "revised" should be inserted before the word "guidelines" in the second sentence, and the phrase "for the preparation of reports" deleted.

44. Paragraph 3, as amended, was adopted.

Paragraphs 4 to 9

45. Paragraphs 4 to 9 were adopted.

Paragraph 10

46. Mr. ABOUL-NASR took issue with the custom that Committee members, who were independent experts, did not have a right to be present and to comment when their own countries' reports were being discussed. He added that there should be a reference in the paragraph to the fact that the delegation had pledged that the Penal Code would be revised to bring it into line with article 4 of the Convention.

47. Mr. DIACONU (Country Rapporteur) said that, accordingly, the clause ", as stated by the State party during the consideration of its previous report" should be added at the end of the paragraph.

48. Paragraph 10, as amended, was adopted.

Paragraph 11

49. Mr. ABOUL-NASR said that perhaps the State party could be asked to inform the Committee about action taken to carry out its pledge to revise the nationality law.

50. The CHAIRMAN suggested redrafting the third sentence to read: "The Committee takes note of the pledge by the State party that it will revise the nationality law, which discriminates against children born to Egyptian women married to non-nationals, so as to bring it into line with the provisions of the Convention, and asks the State party to inform the Committee in its next report."

51. Paragraph 11, as amended, was adopted.

Paragraph 12

52. Paragraph 12 was adopted.

Paragraph 13

53. Mr. ABOUL-NASR proposed that the phrase "as a matter of priority" should be deleted after the verb "resolve", because the registration of non-governmental organizations (NGOs) was not as urgent as some other concerns.

54. Mr. TANG Chengyuan observed that, as worded, paragraph 13 bore no relation to the Convention.

55. Mr. de GOUTTES proposed that a connection should be made by adding, at the end of the paragraph, the clause "in particular, those active in the struggle against racial discrimination".

56. Paragraph 13, as amended, was adopted.

Paragraph 14

57. Paragraph 14 was adopted.

Paragraph 15

58. The CHAIRMAN said that, since not all readers of the Committee's report would be familiar with the Paris principles, the reference to them should be either deleted or specified.

59. Mr. PILLAI, supported by Mr. DIACONU and Mr. de GOUTTES, proposed inserting the phrase "concerning the establishment and functioning of national human rights institutions" after the words "the Paris principles".

60. Mr. de GOUTTES proposed that, in addition, a parenthetical reference to the General Assembly resolution in which the Paris principles had been adopted should be added after the inserted phrase.

61. Paragraph 15, as amended, was adopted.

Paragraphs 16 to 20

62. Paragraphs 16 to 20 were adopted.

63. The draft concluding observations concerning the thirteenth to sixteenth periodic reports of Egypt as a whole, as amended, were adopted.

Draft concluding observations concerning the sixth to ninth periodic reports of Viet Nam (CERD/C/59/Misc.21/Rev.2)

64. In response to a request by the CHAIRMAN, Mr. ABOUL-NASR said that he would agree to act as Country Rapporteur in the absence of Ms. January-Bardill.

Paragraphs 1 and 2

65. Paragraphs 1 and 2 were adopted.

Paragraph 3

66. The CHAIRMAN questioned whether the State party's strategy of reconstruction bore any relation to the Convention.

67. Mr. TANG Chengyuan said that, although regional disasters and the financial crisis had had an impact on south-east Asia as a whole, that was not especially true for Viet Nam and the paragraph was in itself unnecessary.

68. Mr. PILLAI, concurring, said that the wording lacked clarity and he suggested that paragraph 3 and the preceding heading B should be deleted.

69. It was so decided.

Paragraph 4

70. The CHAIRMAN said that the Convention should in some way be specified in connection with the steps taken by the State party to disseminate information on its human rights obligations if, indeed, that link had been made.

71. Mr. de GOUTTES, supported by Ms. BRITZ, said that the periodic report (paras. 13 ff. and 18) had referred only to the protection of human rights in general, with no specific reference to the Convention itself.

72. Mr. ABOUL-NASR said that, since human rights included freedom from racial discrimination, the paragraph could nonetheless be retained as it stood.

73. Paragraph 4 was adopted.

Paragraph 5

74. Ms. BRITZ, supported by Mr. PILLAI, said that she thought it inappropriate to wish the Government success in achieving its goals, and proposed deleting that final clause in the paragraph.

75. Paragraph 5, as amended, was adopted.

Paragraphs 6 and 7

76. Paragraphs 6 and 7 were adopted.

Paragraph 8

77. Ms. BRITZ recalled, in connection with the first sentence in which the Committee expressed concern about the State party's claim that racial discrimination did not exist in Viet Nam, that the delegation in its oral presentation had described that statement in the report as a misunderstanding and had later recognized that there were indeed racial tensions and racial discrimination in the country.

78. The CHAIRMAN, supported by Mr. ABOUL-NASR, proposed deleting the first sentence.

79. Mr. de GOUTTES said that he thought the sentence should be retained because the assertion had been a subject of discussion, but that it should be amended by replacing the phrase "the State party's claim that" by the phrase "the affirmation in the written report according to which".

80. Ms. BRITZ noted that deleting the reference to the assertion would remove the basis of the subsequent recommendation in the second sentence.

81. Mr. de GOUTTES, supported by Ms. BRITZ and the CHAIRMAN, proposed that the first sentence should be deleted together with the initial phrase "In this regard" in the second sentence. The second sentence should then be amended to read: "The Committee, considering that no country is immune from racial discrimination, encourages the State party", etc. That would express a traditional position on the part of the Committee.

82. Paragraph 8, as amended, was adopted.

Paragraph 9

83. Paragraph 9 was adopted with a minor drafting change.

The meeting rose at 1 p.m.